

Decision 15-07-009 July 23, 2015

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Georkeshia Denise Campbell,

Complainant,

vs.

Southern California Edison Company (U338E),

Defendant.

Case 14-04-028  
(Filed April 25, 2014)

Georkeshia Denise Campbell, for herself,  
complainant.

Janet S. Combs, Sharon Yang, and Lisa Tobias,  
Attorneys at Law, for Southern California Edison  
Company, defendant.

**DECISION DISMISSING THE COMPLAINT OF  
GEORKESHIA DENISE CAMPBELL**

**Summary**

This Decision dismisses the complaint filed by Georkeshia Denise Campbell against Southern California Edison Company. The complaint raises no legal issue or question of material fact requiring resolution by the Commission.

Case 14-04-028 is closed.

### **The Parties**

Georkeshia Denise Campbell (Campbell or Complainant) had ownership of 1056 West Avenue J-7, Lancaster, CA (premises) from August 2000, and resided there until sometime between March 2012 and October 2012.

Defendant Southern California Edison Company (SCE or Defendant) is an investor-owned public utility under the jurisdiction of the California Public Utilities Commission, which provides electricity to approximately 14 million customers in Southern California. SCE's principal place of business is located at 2244 Walnut Grove Avenue, Rosemead, CA 91770.

### **1. Background and Procedural History**

Complainant Georkeshia Denise Campbell (Campbell) filed this complaint on April 25, 2014 against Southern California Edison Company (SCE) to challenge SCE's right to enter the premises to service a utility pole located approximately "200 paces" beyond the gate giving access to the premises. She says that, many years earlier, she became concerned about SCE employees entering the premises when she saw a SCE worker crawling on top of a 6 foot high brick wall while servicing the utility pole. At that time, Complainant contacted SCE to determine whether they would give her assurance that she would not be liable if a SCE worker was injured on the property, but they did not respond.

Her complaint further alleges that, at the time that she purchased the premises, property records did not display any encumbrances or liens besides the mortgage. Complainant claims that she recently became aware that SCE had been granted an easement in 1954 by prior owners of the premises, but she questions whether the easement remained in effect after her purchase of the property since she did not consent to it. Complainant also inquired to SCE about

how many customer accounts are serviced by the utility pole (her complaint seeks a percentage of revenues collected from those customers).

Defendant SCE answered the complaint on June 2, 2014 and simultaneously filed a Motion to Dismiss the Complaint. In its motion to dismiss, SCE contended that Complainant did not have standing to proceed because, by the date that the complaint was filed, her customer relationship with SCE had ended<sup>1</sup> and her ownership of the property had ended. In its motion, SCE also asserted that the Commission lacks jurisdiction to adjudicate real property questions such as easements, and therefore, lacks jurisdiction to award the damages that Complainant is requesting.

On June 18, 2014, the assigned Administrative Law Judge (ALJ) issued a ruling setting the matter for prehearing conference (PHC), and ordered the Complainant to bring to the PHC any indicia she might have to prove her ownership of the premises and continuing business relationship with SCE.

The PHC was held on August 1, 2014. Campbell represented herself without assistance of counsel. SCE was represented by counsel. During the PHC, Campbell said that she resided at the premises from approximately August 22, 2000 through October 2012. SCE counsel stated that utility records reflected that Campbell last had service at the premises March 12, 2012. In any event, it is undisputed that Campbell did not reside at the premises on April 25, 2014 – the date that she filed the subject complaint.

At the PHC, SCE's counsel provided Campbell with a copy of the easement on the premises granted to SCE effective June 2, 1951, by the then owners. It

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<sup>1</sup> SCE records reflect that Complainant was the customer of record at the premises from August 2000 through March 2012.

reflects that it was recorded in official records of the Los Angeles County Recorder on June 4, 1954. Although Campbell's complaint states that the property record for the premises did not reflect the easement, it appears that it was duly recorded many years before August 2000, when Campbell came into possession of the property.

SCE and Complainant also agreed to exchange certain information following the PHC. SCE indicated that it would provide Campbell with copies of its CSS notes<sup>2</sup> pertaining to Campbell's calls. Campbell indicated that she has a notebook containing a log of the calls she has placed to SCE over the years, and that she would provide copies of these to SCE to assist it with locating any CSS notes that it may have concerning her calls. The parties agreed to exchange this information within 30 days following the hearing. In addition, the Complainant requested permission to submit briefing to address the information discussed during the PHC, to discuss the exchanged documentation and to respond to the motion to dismiss. In a Ruling issued August 14, 2014, the assigned ALJ granted the parties an additional two weeks (beyond the exchange of documentation noted above) to submit briefing.

The matter was submitted on September 29, 2014.

## **2. Relief Sought**

Campbell seeks monetary compensation from SCE, as her complaint indicates that "SCE has continued to gain access to my property without providing payment to maintain equipment or services provided to other customers." At the PHC, Campbell stated that she filed this complaint to seek a

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<sup>2</sup> CSS notes are notes of customer calls received into the customer service center.

“stipulated agreement for access”<sup>3</sup> from SCE for access to the property. She also wants specific information about customers whom SCE provides services to in the community.<sup>4</sup> Lastly, she expressed concern about potential liability for SCE employees entering the property.<sup>5</sup>

### **3. Issues Presented**

The issues presented by the complaint and motion to dismiss are:

1. Does the Complainant Ms. Campbell have standing to file any type of complaint against SCE in March 2014 when, at that time, she was neither a customer of SCE, nor an owner or resident of the premises?
2. Does the Commission have jurisdiction to adjudicate issues, such as easements, which arise out of real property law?

### **4. Standard for Ruling on a Motion to Dismiss**

In its motion to dismiss, SCE asserts that the Commission lacks jurisdiction to adjudicate real property questions such as easements, and therefore, lacks jurisdiction to award the damages that Complainant is requesting. It also

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<sup>3</sup> August 1, 2014 Transcript at 8, lines 3-6.

<sup>4</sup> Transcript at 9, lines 16-25:

My reason for bringing this complaint was to, one, clarify how many people receive services on that regulatory pole; second, what is the rate that they are charging each and every participant; and third, because the Public Utilities Commission does regulate services of electric services, that I would be able to at least get those things clarified here in this court.

<sup>5</sup> Transcript at 10 lines 9-13:

...we were taking risk and are taking risk of one of their employees entering the property getting hurt and something like that – if something were to happen, that would fall on the homeowner, the property owner.

Also see Transcript at 11, lines 19-22:

...we wanted a waiver. We wanted some type of agreement for them to access the property, you know, rendering us not responsible.

contends that, by the date that the complaint was filed, Campbell's customer relationship with SCE had ended<sup>6</sup> and it was not clear whether she continued to hold title to the property.

In Raw Bandwith Communications, Inc. v. SBC California, Inc. and SBC Advanced Solutions, Inc. (Raw Bandwith),<sup>7</sup> the Commission stated that a Motion to Dismiss requires the Commission to determine whether the party bringing the motion prevails based solely on undisputed facts and matters of law. The Commission's Rules of Practice and Procedure (Rule) 11.2<sup>8</sup> governs motions to dismiss. This procedure is analogous to a motion for summary judgment in civil practice.<sup>9</sup> The Commission has explained that the purpose of both types of motions is to permit determination of whether there are any triable issues of material fact before proceeding to trial, thus promoting and protecting efficiency in the administration of cases by eliminating needless litigation. The California Code of Civil Procedure (CCP) § 437(c) provides guidance on the standards upon which a motion for summary judgment may be granted.<sup>10</sup> In Decision (D.) 06-08-006, the Commission stated that under the summary judgment procedure, the moving party (SCE) has the burden of showing that there are no

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<sup>6</sup> SCE records reflect that Complainant was the customer of record at the premises from August 2000 through March 2012.

<sup>7</sup> D.04-05-006 at 8.

<sup>8</sup> All references to Rules refer to the Commission's Rules of Practice and Procedure. (See [http://docs.cpuc.ca.gov/published/RULES\\_PRAC\\_PROC/70731.htm](http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm).)

<sup>9</sup> Westcom Long Distance v. Pacific Bell, D.94-04-082, 54 CPUC2d 244, 249 (1994).

<sup>10</sup> CCP § 437( c):

The motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

disputed facts by means of affidavits, declarations, admissions, answers to interrogatories, deposition and matters of which judicial notice shall or may be taken.<sup>11</sup>

In evaluating the sufficiency of Campbell's allegations, we are guided by the standards set forth in Public Utilities Code Section 1702, which provides that a complainant must (a) allege that a regulated utility has engaged in an act or failed to perform an act; (b) in violation of any law or commission order or rule. In addition, Rule 4.2(a) requires that complaints be drafted with specificity so that the defendant and the Commission know precisely the nature of the wrong that defendant has allegedly committed, the injury and the relief requested.<sup>12</sup>

Campbell's Complaint simply alleges that SCE has "continued to gain access to said property without providing payments to maintain equipment or services provided to other customers." The Complaint does not identify which law, Commission order or rule was violated by SCE. At hearing, Campbell was more specific, indicating that she had concern about whether she was required to abide by an easement granted to SCE by a prior property owner, when she has not received any consideration or payment from SCE to access her property.

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<sup>11</sup> Westcom Long Distance, *supra*, 54CPUC2d at 249, quoted in D.06-08-006 Qwest Communications v. Pacific Bell.

<sup>12</sup> Rule 4.2(a):

...The specific act complained of shall be set forth in ordinary and concise language. The complaint shall be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired.

## 5. Discussion

There are two questions, either of which answered in the negative, will require the complaint to be dismissed:

1. Does the Complainant have standing to file any type of complaint against SCE, when in March 2014, she was neither a customer of SCE, nor a resident of the premises?
2. Does the Commission have jurisdiction to adjudicate issues, such as easements, which arise out of real property law?

### 5.1. Standing to File Complaint

Does the Complainant have standing to file any type of complaint against SCE in April 2014 if, at that time, she was not a customer of SCE, nor a resident of the premises? Rule 4.1(a)(1) simply states that a complaint may be filed by any person.<sup>13</sup>

However, Commission decisions have elaborated upon what is necessary to have standing to file a complaint. D.14-03-013<sup>14</sup> concerned a complaint by an individual against a water company which installed a service line through the property that the individual lived on, in order to provide service to other properties. The individual claimed compensation for the easement, contending that it was unapproved. The water company contended that the easement was

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<sup>13</sup> Rule 4.1 Who May Complain.

(a) A complaint may be filed by:

- (1) any corporation or person, chamber of commerce, board of trade, labor organization, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, setting forth any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission.



developed based on an understanding with the prior owner (the individual's father). When the complaint was filed and when the hearing occurred, title to the property was held in another person's name. The Commission ruled that because the individual did not hold title to the property, he had no standing to seek compensation for the easement.<sup>15</sup> Similarly, in a case in which an individual alleged that an electric utility was operating in violation or in the absence of an easement on property in his community, the Commission held that the individual did not have standing to bring the complaint because he was not the owner of the private property at issue.<sup>16</sup>

It is undisputed that Campbell did not reside at the premises on April 25, 2014 – the date that she filed the subject complaint. However, she claims that her continued ownership of the premises was still at issue because she is involved in a legal dispute with Bank of America.<sup>17</sup> In its Motion to Dismiss the Complaint, SCE admits that it has no information as to whether Complainant actually holds title to the premises.<sup>18</sup>

Absent clear evidence to the contrary, we will presume that Complainant retains title to the premises, although she no longer resides there. Accordingly, we will assume that Complainant did have standing to file the complaint. This being the case, there is still an issue about whether the Commission has jurisdiction to award Campbell the relief she seeks.

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<sup>14</sup> Beery v. Madden Creek Water Company, D.14-03-013 (2013).

<sup>15</sup> D.14-03-013, *supra* at 5.

<sup>16</sup> Donald v. Pacific Gas and Electric Company, D.12-09-010 (2012).

<sup>17</sup> PHC Transcript at 21 lines 5-27.

<sup>18</sup> Motion to Dismiss dated June 2, 2014, at 5.

## **5.2. Jurisdiction of the Commission in Real Property Dispute**

There are two reasons why Complainant cannot prevail here.

First, the easement on the premises was granted to SCE by prior owners of the premises. SCE provided a document to Campbell at the PHC which reflects that an easement on the premises was recorded in official records of the Los Angeles County Recorder on June 4, 1954. Campbell did not challenge the authenticity of that document.

Because the easement was recorded many years before Campbell came into possession of the property in August 2000, the situation in this case is analogous to that which existed in D.14-03-013. SCE contends that it reached agreement on the easement with the prior owner of the premises. Therefore, Campbell must demonstrate why she is entitled to compensation for an easement that was attached to the premises at the time that she acquired title. Campbell's contention is that she had "no notice" of the easement at the time that she acquired title to the premises, this is an issue between Campbell and the seller of the premises or the seller's title company. The Commission clearly has no jurisdiction over either of them, as they are not parties in the case, and the sale and purchase of real property by individuals is not within the scope of the Commission's regulatory authority.

We agree with Defendant SCE that the Commission does not have the authority to settle a property dispute, such as this one, which concerns either a cloud on title or an easement. This dispute should be handled by the courts.

Second, Campbell has not alleged that she has suffered any injury or damages as a result of SCE's actions. She expresses concern that she "may" or "could" potentially be liable for damages if an employee of SCE were to suffer injury on the premises, but this is purely speculative. To date, injury has not

actually occurred. Furthermore, we agree with SCE that, even if Campbell is entitled to damages from SCE, the Commission has itself determined that the California Constitution<sup>19</sup> and the California Public Utilities Code<sup>20</sup> give the Commission authority to award reparations only, while the courts have the power to award consequential damages.

In D.11-09-027, the Commission described “reparations” as relief limited to a refund or adjustment of part or all of the utility charge for a service or group of related services, and “consequential damages” as an amount of money to compensate an injured party for injury proximately caused by a tortious act.<sup>21</sup> Campbell has not demonstrated any actual harm or any act for which she would be entitled to damages. But, even if she had, the Commission has interpreted its ability to redress economic harms to ratepayers to be limited to that described under Pub. Util. Code § 2106, which requires actions for monetary damages to be brought in Superior Court.<sup>22</sup>

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<sup>19</sup> Cal. Const. Art. XII.

<sup>20</sup> Cal. Pub. Util. Code § 701.

<sup>21</sup> Diener v. Pacific Gas and Electric, D.11-09-027 at 3 “This Commission has uniformly held that it has no jurisdiction to award damages as opposed to reparations.”

<sup>22</sup> See supra, D.11-09-027 at 3 citing Pub. Util. Code § 2106:

Any public utility which does, causes to be done, or permits any act, matter, or thing prohibited or declared unlawful, or which omits to do any act, matter, or thing required to be done, either by the Constitution, any law of this State, or any order or decision of the commission, shall be liable to the persons.. affected thereby for all loss, damages, or injury caused thereby or resulting therefrom...an action to recover for such loss, damage, or injury may be brought in any court of competent jurisdiction by any corporation or person.

### **5.3. SCE Communications with Complainant**

At the PHC, Complainant indicated that SCE had failed to respond to her requests for information related to the utility pole on her premises, including information about the rates being charged to customers whose service is connected to the pole.<sup>23</sup> In an August 14, 2014 ruling, the ALJ ordered the parties to exchange documentation concerning CSS notes and other correspondence between Campbell and SCE which would reflect Campbell's inquiries to SCE and their responses to her. Complainant requested and was granted an additional two weeks (i.e., until September 12, 2014) to submit briefing to discuss the exchanged documentation and to respond to SCE's motion to dismiss.

On September 12, 2014, SCE submitted additional briefing with copies of the CSS notes it provided to Complainant. The CSS notes cover a period from October 4, 2006 through July 31, 2014. Campbell submitted briefing dated September 12, 2014, which included the same notes.<sup>24</sup>

Within the Commission's broad authority to supervise and regulate utilities, is an obligation to ensure that utilities adopt information practices and consumer protection standards that are within the public interest<sup>25</sup> and give due regard to customer confidentiality.<sup>26</sup> As a result, it is important that any utility give due attention to consumer inquiries and provide an appropriate response.

The CSS notes do not reflect any inquiries concerning the matters raised within Campbell's Complaint, i.e., about SCE employee access to the utility pole

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<sup>23</sup> Transcript at 9, lines 16-25.

<sup>24</sup> Campbell's briefing did not include any argument responding to SCE's motion to dismiss her complaint.

<sup>25</sup> Pub. Util. Code § 394.4(h).

<sup>26</sup> Pub. Util. Code § 394.4(a).

on the premises or information concerning customers whose service was connected to the utility pole. The CSS notes do reflect that SCE responded appropriately to periodic inquiries from the Complainant.

We note that, even if the notes had demonstrated that Campbell had requested information from SCE concerning customers whose service was connected to the utility pole, we do not believe that it would have been appropriate for SCE to provide this information to her in view of every utility's obligation to protect customer confidentiality.<sup>27</sup>

## **6. Conclusion**

There are no triable issues of fact presented in the Complaint. Therefore, the Complaint should be dismissed.

## **7. Categorization and Need for Hearing**

The Instruction to Answer filed on May 1, 2014 categorized this matter as adjudicatory as defined in Rule 1.3(a).

## **8. Comments on Proposed Decision**

The proposed decision of ALJ Patricia Miles in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on June 25, 2015 by SCE, no reply comments were filed.

## **9. Assignment of Proceeding**

Michel Peter Florio is the assigned Commissioner, and ALJ Patricia B. Miles is designated as the Presiding Officer in this proceeding.

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<sup>27</sup> Pub. Util. Code § 394.4(a).

### **Findings of Fact**

1. The Complainant, Georkeshia Denise Campbell, filed a complaint against SCE on April 25, 2014 with respect to premises at 1056 West Avenue J-7 in Lancaster, CA.
2. In the complaint, the Complainant seeks payment from SCE for access to the premises, an agreement for continued access to the premises and information about customers whom SCE provides services to within the community.
3. SCE appropriately responded to Complainant's inquiries under Pub. Util. Code §§ 394.4(a) and (h).
4. There are no triable issues presented in the Complaint.
5. Pursuant to Rule 13.2(a), ALJ Patricia B. Miles is the Presiding Officer.

### **Conclusions of Law**

1. Complainant had standing to file a complaint on April 25, 2014.
2. The Commission lacks authority to adjudicate real property disputes related to title or easements.
3. The Complaint should be dismissed because it does not present any triable issues.

## **O R D E R**

### **IT IS ORDERED** that:

1. Southern California Edison Company's motion to dismiss is granted and Case 14-04-028 is dismissed with prejudice.

2. Case 14-04-028 is closed.

This order is effective today.

Dated July 23, 2015, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners